

The below described is **SIGNED**.

Dated: January 24, 2012

R. Kimball Mosier

R. KIMBALL MOSIER
U.S. Bankruptcy Judge
IN THE UNITED STATES BANKRUPTCY COURT



FOR THE DISTRICT OF UTAH

In re:

STEVEN L. DISTAD,) Bankruptcy No. 97-27993
) Chapter 7
Debtor,)
_____)
)
STEVEN L. DISTAD,)
)
Plaintiff,) Adv. No. 07-2047
)
v.)
)
UNITED STATES INTERNAL)
REVENUE SERVICE,)
)
Defendant.)
_____)

ORDER

Before the Court is the United States' motion to dismiss the plaintiff's claim for monetary damages for violation of the discharge injunction for tax years 1986, 1987, 1988 and 1989. A hearing on this matter was held on November 15, 2011. Virginia Cronan Lowe appeared on behalf of the defendant, the United States of America, and Joel Zenger appeared on behalf of the plaintiff, Steven L. Distad. Based on the pleadings filed, the arguments of the parties, and the findings made by the Court on the record at the hearing, the Court finds that pursuant to 26 U.S.C. § 7433(d) exhaustion of administrative remedies is mandatory and the plaintiff has failed to exhaust his administrative remedies with regard to his claim for damages for the tax years 1986, 1987, 1988 and 1989. The Court also finds that the United States did not

4170363.1

waive its exhaustion of administrative remedies defense. Therefore, IT IS HEREBY
ORDERED:

That the plaintiff's claim for damages for violation of the discharge injunction for tax
years 1986, 1987, 1988, and 1989 is dismissed with prejudice; and

That the adversary proceeding is dismissed.

Dated: _____

R. KIMBALL MOSIER
U.S. Bankruptcy Judge

ORDER SIGNED

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the foregoing PROPOSED ORDER has been made this 13th day of January, 2012, by electronic mail addressed to:

Joel T. Zenger, Esq. at zenger@millerguymon.com

/s/ Virginia Cronan Lowe
VIRGINIA CRONAN LOWE
Trial Attorney, Tax Division
U.S. Department of Justice

ORDER SIGNED